

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

OLIVIA Y., By and  
Through Her Next Friend,  
James D. Johnson, et al.

PLAINTIFFS

v.

CIVIL ACTION NO. 3:04CV251LN

HALEY BARBOUR, As Governor of the State  
of Mississippi; DONALD TAYLOR, as Executive  
Director of the Department of Human Services; and  
BILLY MANGOLD, as Director of the Division of Children's Services

DEFENDANTS

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**MOTION FOR LEAVE TO SUBSTITUTE AN AMENDED EXHIBIT 1 TO  
DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION FOR CLASS  
CERTIFICATION**

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**COME NOW** Defendants, by and through counsel, and file their Motion for Leave to Substitute an Amended Exhibit 1 to Defendants' Response to Plaintiffs' Motion for Class Certification and withdraw the Exhibit 1 heretofore filed and would show unto the Court the following:

1. On January 18, 2005, Defendants filed their Response to Plaintiffs' Motion for Class Certification. Attached to this Response was Exhibit 1: Facts in Support of Defendants' Response to Plaintiffs' Motion for Class Certification.

2. Counsel for Plaintiffs subsequently contacted Counsel for Defendants, contending that Exhibit 1 to the Response contained information that may not strictly comply with the Confidentiality Order entered by this Court on August 5, 2004.

3. Defendants, in an effort to address concerns of confidentiality, request that the Court allow them to file and substitute an amended Exhibit 1 *nunc pro tunc* for the previous

Exhibit 1 which should be withdrawn. Attached is a revised Exhibit 1, which addresses all concerns expressed by Plaintiffs' counsel by redaction. In all other respects it is the same as the original.

**WHEREFORE, PREMISES CONSIDERED,** Defendants respectfully request that the Court grant this motion for leave to substitute *nunc pro tunc* the attached Exhibit 1 for the original filed on January 18, 2005, and to withdraw the original Exhibit 1 and for such other relief as to which Defendants may be entitled.

Respectfully submitted,

HALEY BARBOUR, As Governor of the State of Mississippi; DONALD TAYLOR, as Executive Director of the Department of Human Services; and BILLY MANGOLD, as Director of the Division of Children's Services

By: \_\_\_\_\_  
Sam E. Scott (MSB #6567)

**OF COUNSEL:**

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 1, 2005, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

W. Wayne Drinkwater, Jr., Esq.  
BRADLEY ARANT ROSE & WHITE LLP  
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I also certify that I have this day served a copy of the foregoing on the following non-ECF participants by United States Mail, postage prepaid:

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**SO CERTIFIED**, this the 1<sup>st</sup> day of February, 2005.

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By: s/Sam E. Scott